

the proposed rule changes are consistent with Section 6 of the Act “by avoiding the regulatory compliance issue of improperly listing the ETFs without CSSAs, or without Commission approval, while providing a clear mechanism to acquire surveillance and trading information when necessary from a foreign regulator via the Commission.”²³

III. Discussion

Under section 19(b)(2)(C) of the Act, the Commission shall approve a proposed rule change of a self-regulatory organization (“SRO”) if it finds that such proposed rule change is consistent with the requirements of the Act, and the rules and regulations thereunder that are applicable to such organization.²⁴ The Commission shall disapprove a proposed rule change if it does not make such a finding.²⁵

After careful consideration, the Commission does not find that the proposed rule changes are consistent

National Commission for Banking and Securities dated as of October 18, 1990, *see* Securities Exchange Act Release Nos. 53824 (May 17, 2006), 71 FR 30003 (May 24, 2006) (SR-Amex-2006-43), 56324 (August 27, 2007), 72 FR 50426 (August 31, 2007) (SR-ISE-2007-72), 56778 (November 9, 2007), 72 FR 65113 (November 19, 2007) (SR-Amex-2007-100), 57013 (December 20, 2007), 72 FR 73923 (December 28, 2007) (SR-CBOE-2007-140), and 57014 (December 20, 2007), 72 FR 73934 (December 28, 2007) (SR-ISE-2007-111). *See* MIAX Letter, *supra* note 6, at 3 nn.7-9 and accompanying text. The Commission notes that these agreements are not at issue in the present proposed rule changes. MIAX also noted that it had previously filed another proposed rule change that was immediately effective using a similar approach to list options on shares of the iShares MSCI Mexico Index Fund. *See* Securities Exchange Act Release No. 72213 (May 21, 2014), 79 FR 30669 (May 28, 2014) (SR-MIAX-2014-19). In that instance, the Exchange relied on an agreement between The National Commission for Banking and Securities and the Commission dated as of October 18, 1990. The Commission notes that the Commission had previously determined that this agreement could be used for surveillance purposes. *See* Securities Exchange Act Release No. 36415 (October 25, 1995), 60 FR 55620 (November 1, 1995) (SR-CBOE-95-45).

²³ *See* MIAX Letter, *supra* note 6 at 4.

²⁴ *See* 15 U.S.C. 78s(b)(2)(C)(i).

²⁵ *See* 15 U.S.C. 78s(b)(2)(C)(ii); *see also* 17 CFR 201.700(b)(3) (“The burden to demonstrate that a proposed rule change is consistent with the Exchange Act and the rules and regulations issued thereunder . . . is on the self-regulatory organization that proposed the rule change. . . . A mere assertion that the proposed rule change is consistent with those requirements . . . is not sufficient.”). The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding. *See* 17 CFR 201.700(b)(3). Any failure of a SRO to provide the information elicited by Form 19b-4 may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Exchange Act and the rules and regulations issued thereunder that are applicable to the SRO. *Id.*

with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.²⁶ In particular, the Commission does not find that the proposed rule changes are consistent with Section 6(b)(5) of the Act, which requires that the rules of a national securities exchange be designed, among other things, “to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.”²⁷

As noted by MIAX, the Commission has permitted an SRO to rely on an agreement between the Commission and the applicable foreign regulator in the absence of a CSSA *only if* the SRO receives an assurance from the Commission that such an agreement can be relied on for surveillance purposes and provides, at a minimum, for the exchange of transaction, clearing and customer information necessary to conduct an investigation.²⁸ This assurance is necessary, because the Commission may enter into a variety of agreements with foreign regulators some of which may be unrelated to the sharing of surveillance information. After carefully and thoroughly reviewing the agreements cited by the Exchange in its proposals, the Commission is unable to provide the necessary assurance that such agreements can be relied on for surveillance purposes.²⁹ Accordingly, the Commission cannot approve MIAX’s request to allow the listing and trading of options on iShares ETFs and Market Vectors ETFs, upon reliance on agreements entered into between the Commission and the applicable foreign regulators in place of a CSSA, in satisfaction of the Exchange’s Listing Standards.³⁰ According to MIAX, such approval would be necessary to make

²⁶ In disapproving the proposed rule changes, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

²⁷ 15 U.S.C. 78f(b)(5).

²⁸ *See* Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952, 70959 n.101 (December 22, 1998).

²⁹ The Commission also notes that the particular agreements referenced in MIAX’s letter, which the Commission has previously allowed exchanges to rely on in lieu of a CSSA between an exchange and the applicable foreign market, are not at issue in the present proposed rule changes. *See supra* note 22.

³⁰ *See* iShares ETFs Proposal, *supra* note 3, and Market Vectors ETFs Proposal, *supra* note 8.

the ETFs compliant with all of the applicable Listing Standards.³¹

The Commission notes that Rule 700(b)(3) of its Rules of Practice reiterates that “[t]he burden to demonstrate that a proposed rule change is consistent with the Exchange Act . . . is on the self-regulatory organization that proposed the rule change.”³² For the reasons articulated above, the Commission does not believe that MIAX has met that burden in this case.

IV. Conclusion

For the foregoing reasons, the Commission does not find that the proposed rule changes are consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with Section 6(b)(5) of the Act.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule changes (SR-MIAX-2014-30 and SR-MIAX-2014-39) be, and hereby are, disapproved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³³

Brent J. Fields,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-74307; File No. SR-MIAX-2015-11]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Period Applicable to Rule 530 Relating To Limit Up/Limit Down

February 19, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 18, 2015, Miami International Securities Exchange LLC (“MIAX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to

³¹ *Id.*

³² 17 CFR 201.700(b)(3).

³³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Exchange Rule 530 to extend the pilot period for the treatment of erroneous transactions during a Limit or Straddle State.

The text of the proposed rule change is available on the Exchange's Web site at http://www.miaxoptions.com/filter/wotitle/rule_filing, at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 530 (Limit Up-Limit Down) in order to extend the pilot period for the treatment of erroneous transactions that occur in a Limit or Straddle State until October 23, 2015.

Exchange Rule 530(j) provides for the treatment of erroneous transactions occurring during Limit and Straddle States. Specifically, once an NMS Stock has entered a Limit or Straddle State, the Exchange will nullify a transaction in an option overlying such an NMS Stock as provided in the Rule 530(j). This provision was adopted for a one year pilot period beginning on the date of the implementation of the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS, April 8, 2013.³ The Exchange previously extended the pilot period for

Rule 530(j) until February 20, 2015.⁴ The Exchange now proposes to extend the pilot period for Rule 530(j) until October 23, 2015 in order to allow the Exchange and the Commission additional time to collect and analyze data regarding the impact of Rule 530(j) on liquidity and market quality in the options markets.

To assist the Commission in its analysis, the Exchange will provide the Commission and the public with data and analysis during the duration of the pilot in order to evaluate the impact of Limit and Straddle States on liquidity and market quality in the options markets. Specifically, by May 29, 2015, the Exchange represents that it shall provide the Commission and the public assessments relating to the impact of the obvious error Rules during Limit and Straddle States that (i) evaluate the statistical and economic impact of Limit and Straddle States on liquidity and market quality in the options markets; and (ii) assess whether the lack of obvious error rules in effect during the Straddle and Limit States are problematic. Additionally, each month during the pilot period the Exchange shall provide to the Commission and the public a dataset containing the data for each Straddle and Limit State in optionable stocks. For each stock that reaches a Straddle or Limit State, the number of options included in the dataset can be reduced by selecting options in which at least one (1) trade occurred on the Exchange during the Straddle or Limit State. For each of those options affected, each data record should contain the following information: (i) Stock symbol, option symbol, time at the start of the straddle or limit state, an indicator for whether it is a straddle or limit state; and (ii) for activity on the exchange—(A) executed volume, time-weighted quoted bid-ask spread, time-weighted average quoted depth at the bid, time-weighted average quoted depth at the offer, (B) high execution price, low execution price, (C) number of trades for which a request for review for error was received during Straddle and Limit States, (D) an indicator variable for whether those options outlined above have a price change exceeding 30% during the underlying stock's Limit or Straddle state compared to the last available option price as reported by OPRA before the start of the Limit or Straddle state (1 if observe 30% and 0 otherwise) and another indicator variable for whether the option price within five minutes of

the underlying stock leaving the Limit or Straddle state (or halt if applicable) is 30% away from the price before the start of the Limit or Straddle state.

2. Statutory Basis

MIAX believes that its proposed rule change is consistent with Section 6(b) of the Act⁵ in general, and furthers the objectives of Section 6(b)(5) of the Act⁶ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. Specifically, the proposal supports the objectives of perfecting the mechanism of a free and open market and the national market system because it promotes uniformity across markets concerning when and how to halt trading in all stock options as a result of extraordinary market volatility. In addition, the Exchange believes that the extension of the pilot will help ensure that market participants continue to benefit from the protections of the Limit Up-Limit Down Rules which will protect investors and the public interest while allowing the Exchange and the Commission additional time to collect and analyze data regarding the impact of Rules on liquidity and market quality in the options markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes are being made to extend the pilot program that provides for how the Exchange shall treat orders and quotes in options overlying NMS stocks when the Limit Up-Limit Down Plan is in effect and will not impose any burden on competition while providing certainty of treatment and execution of options orders during periods of extraordinary volatility in the underlying NMS stock, and facilitating appropriate liquidity during a Limit State or Straddle State.

³ See Exchange Rule 503(j). See also Securities Exchange Act Release Nos. 69210 (March 22, 2013), 78 FR 18637 (March 27, 2013) (SR-MIAX-2013-12); 69342 (April 8, 2013), 78 FR 22017 (April 12, 2013) (SR-MIAX-2013-12); 69234 (March 25, 2013), 78 FR 19344 (March 29, 2013) (SR-MIAX-2013-15); 69354 (April 9, 2013), 78 FR 22357 (April 15, 2013) (SR-MIAX-2013-15).

⁴ See Securities Exchange Act Release No. 71881 (April 4, 2014), 79 FR 19956 (April 10, 2014) (SR-MIAX-2014-14).

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁷ and Rule 19b-4(f)(6)(iii) thereunder.⁸

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the obvious error pilot program to continue uninterrupted while the industry gains further experience operating under the Plan to Address Extraordinary Market Volatility, and avoid any investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change to be operative upon filing.⁹

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(6)(iii). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

⁹ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-MIAX-2015-11 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-MIAX-2015-11. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-MIAX-2015-11, and should be submitted on or before March 18, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Brent J. Fields,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-74309; File No. SR-NYSEMKT-2015-10]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Pilot Period Applicable to Rule 953.1NY(c), Obvious and Catastrophic Errors, Until October 23, 2015

February 19, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 18, 2015, NYSE MKT LLC (the "Exchange" or "NYSE MKT") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot period applicable to Rule 953.1NY(c), which addresses how the Exchange treats Obvious and Catastrophic Errors during periods of extreme market volatility, until October 23, 2015. The pilot period is currently set to expire on February 20, 2015. The text of the proposed rule change is available on the Exchange's Web site at www.nyse.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.